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TOWNSEND and TOWNSEND and CREW LLP

By: Timothy S. Parker  
Timothy S. Parker

PATENT  
Attorney Docket No.: 021819-000300US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Steven W. Dow, et al.

Application No.: 10/621,254

Filed: July 14, 2003

For: VACCINES USING PATTERN  
RECOGNITION RECEPTOR-  
LIGAND:LIPID COMPLEXES

Customer No.: 20350

Confirmation No.: 9736

Examiner: HOLLERAN, Anne L.

Art Unit: 1643

Rule 1.132 Declaration

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1. I, Steven W. Dow, Ph.D., am a Professor at Colorado State University in Fort Collins Colorado, and one of the inventors of the subject matter disclosed and claimed in the above-referenced patent application.

2. I hold a DVM from the University of Georgia, and a Ph.D from Colorado State University. I have worked in the field of immunology for over 15 years and specifically in the field of cellular immunology and vaccinology for over 10 years. A copy of my Curriculum Vitae is attached as Exhibit A.

WMM

3. It is my understanding that claims currently under examination, were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,693,086 for which I am the inventor. This Declaration presents that I am the inventor of rejected claims 1-7, 10 31-36, 39, 40, 42, 43-44, 61, 64, 65, 85-87, 112, 118, 120, 151 and 156 of the present invention and the inventor for the cited portions (described below) of the '086 patent cited against the present application. Therefore, the invention disclosed but not claimed in the '086 patent was derived from myself as the inventor of rejected claims of this application and is thus not an invention "by another" as defined under §103(a).

4. I declare that I am the inventor of the subject matter corresponding with claims 34-37 and column 6, lines 41-58 of the '086 patent which teaches methods for treating cancer comprising the administration of immunostimulatory nucleic acids complexed with liposomes.

5. I declare that I am the inventor of the subject matter corresponding with column 3, lines 8-25 of the '086 patent which teaches a method that can elicit a systemic, anti-tumor immune response in a mammal that results in an increase in effector cell activity and particularly natural killer cell activity and an increased production of interferon gamma.

6. I declare that I am the inventor of the subject matter corresponding with column 13, lines 14-29 of the '086 patent which teaches that the nucleic acid may be any nucleic acid, coding or non-coding, and not necessarily operatively linked to a transcription control sequence.

7. I declare that I am the inventor of the subject matter corresponding with column 13, lines 34-35 of the '086 patent which teaches the use of a recombinant nucleic acid (reads on synthetic DNA).

8. I declare that I am the inventor of the subject matter corresponding with claims 1-7, 10 31-36, 39, 40, 42, 43-44, 61, 64, 65, 85-87, 112, 118, 120, 151 and 156 of the present application 10/621,524.

9. I further declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both (18 U.S.C. § 1001), and may jeopardize the validity of the patent application or any patent issuing thereon.

*Steven W. Dow*

Date: Sept 10, 2008 \_\_\_\_\_

By: \_\_\_\_\_

Steven W. Dow, Ph.D.